

CY PRES DISTRIBUTION PLAN

This *Cy Pres* Distribution Plan (the “Plan”) is entered into pursuant to terms of the Amended Stipulation of Settlement dated January 21, 2010, as further amended on May 24, 2011 (the “Stipulation of Settlement”) (D.E. Nos. 42 and 54) between Plaintiff and class representative James Gemelas, for and on behalf of the Class, and Defendant The Dannon Company (collectively, the “Settling Parties”). Unless otherwise noted, all provisions of the Stipulation of Settlement are incorporated into this Plan by reference, including, without limitation, all definitions. Unless otherwise noted, all capitalized terms used here shall have the same meaning given them in the Stipulation of Settlement. This Plan defines the *cypres* distribution plan for the Product Donations, as well as the duties and obligations of the Settling Parties and the *Cy Pres* Recipient (defined below) as described in Section IV.A.(3)(a) of the Stipulation of Settlement. All references to “Section ___” shall be to the Stipulation of Settlement, unless otherwise noted.

A. Appointment of *Cy Pres* Recipient

Pursuant to Section IV.A.(3)(a) of the Stipulation of Settlement, Feeding America is appointed “*Cy Pres* Recipient” of the Product Donations. Feeding America is the nation’s leading domestic hunger-relief charity, with more than 200 member food banks serving all 50 states, the District of Columbia and Puerto Rico. Informational brochures about Feeding America, including its distribution chain, are filed herewith as Exhibits B – D.

B. Agreement by *Cy Pres* Recipient

Feeding America has consented to abide by the obligations of the Stipulation of Settlement and this Plan by executing a counterpart of this Plan. Feeding America warrants that it knows of no reason why it cannot fairly and efficiently identify and distribute the Product Donations pursuant to this Plan.

C. Timing and Size of Product Donation Distributions

Beginning no later than **May 1, 2011**, Dannon will provide Feeding America with a maximum of 125 truckloads per month, approximately \$4.375 million total or \$35,000 per truckload, of Product Donations to distribute to the hungry. Within eighteen months of obtaining this Court’s approval of the Plan, Dannon shall deliver the entire remainder of the total Product Donations to Feeding America. Dannon shall deliver the Product Donations free of charge to Feeding America’s member food banks or distribution centers as specified by Feeding America, from the distribution center maintained by Dannon that is the closest to the delivery location. The Product Donations shall be submitted to Feeding America on a weekly basis using Feeding America’s DonorExpress system.

D. Maintenance and Preservation of Records

Feeding America shall keep a clear and careful record of the receipt and distribution of all Product Donations made pursuant to this Plan. Dannon shall keep a clear and careful record of the Product Donations provided to Feeding America made pursuant to this Plan.

E. Products Made Available by the Product Donations

The Product provided by Dannon and distributed to the hungry through Feeding America may include any commercially sold Dannon dairy product. Dannon and Feeding America agree to work together to identify and provide to the hungry the most appropriate Dannon dairy products given the needs of the populations then being provided the Product Donations. The weekly Product Donations shall have an assortment of three or more flavors of eight ounces or less of individual size packages. The Product Donations shall have a minimum of thirty-five days of use by date at the time of shipment to Feeding America. The Total Product Donations shall be in addition to any amount of donations Dannon makes annually to Feeding America.

F. Access to Information from the *Cy Pres* Recipient

The Settling Parties are entitled to observe and monitor the performance of Feeding America to assure compliance with the Plan. Feeding America shall promptly respond to all inquiries and requests for information made by either Dannon, Plaintiff's Counsel or Defendant's Counsel.